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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,263	10/28/2003	Jung Kook Lee	13060-02USA	6512

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EXAMINER

LIEU, JULIE BICHNGOC

ART UNIT PAPER NUMBER

2612

DATE MAILED: 08/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/696,263	LEE, JUNG KOOK	
	<b>Examiner</b>	<b>Art Unit</b>	
	Julie Lieu	2612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/31/06</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This Office action is in response to Applicant's amendment filed October 25, 2005.

Claim 20 has been amended. No claims have been canceled or added.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

1. Claims 1-4, 7, and 11-15 are again rejected under 35 U.S.C. 102(e) as being anticipated by Teller (US Patent No. 2002/0013538).

#### Claim 1:

Teller discloses a health monitoring device comprising:

- a. a skin temperature sensor 102 connected to a microprocessor 114 for mathematically converting the sensed temperature to corrected skin temperature (see para. [0069] and [0073]);
- b. a movement sensor (para. [0119]);
- c. a display screen 112; and
- d. a means 202 for communicating with a computer.

#### Claim 2:

Teller discloses using a humidity sensor indirectly from the Internet. Para. [0073].

#### Claim 3:

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The device in Teller is shaped as a band. Para. [0055].

Claim 4:

Teller suggests that the device could be used on a baby's appendage. Para [0119].

Claim 7:

The computer in Teller is connected to a web server so as to be in communication with other computers at home or at hospital. See [0073],

Claim 11:

Teller discloses a chart comprising corrected skin temperature profile over a set time period. Para. [0073]. The corrected skin temperature is generated and recorded by comparing and analyzing data obtained with the device according to the device stated in the rejection of claim 1.

Claim 12:

The chart in Teller comprises ambient temperature profile over the set time period. Para. [0073].

Claim 13:

Teller implicitly discloses a chart comprising movement profile over the set time period. Para. [0073] and [0119].

Claims 14 and 15:

The chart in Teller is display on a solid medium, which is display screen 112.

***Claim Rejections - 35 USC § 103***

2. Claims 5, 6, 8-10, and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teller (US Patent No. 2002/0013538).

Claims 5-6:

Teller discloses connecting to a computer a home comprising software to communicate with the device. See para. [0062]. Though a repeater is not particularly disclosed, it would have been obvious to one skilled in the art to use a repeater at the home computer because the use of a repeater in a computer system, e.g. wireless internet connection device, to receive signal is conventional in the art.

Claim 8:

Teller discloses a method of facilitating determination of health of a baby comprising providing instructions that comprise simultaneously monitoring corrected skin temperature of the baby, monitoring ambient temperature surrounding the baby, and monitoring level of movement of the baby with the device over time; and comparing and analyzing data obtained, wherein presence of high or rising corrected skin temperature compared with substantially level ambient temperature is not healthy. Refer to previously cited paragraphs in the rejection of the apparatus claims.

The reference fails specifically discuss the infrequent movement of the baby. Nonetheless, the reference infers such condition to be detected as it implicitly suggests that undesirable change in the position or movement of the baby factors in as discussed in para. [0119]. In light of this discussion, one skilled in the art would have readily recognized to

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consider infrequent movements of the baby as a factor to determined an abnormal situation in the Teller monitoring system.

Claim 9:

The instruction disclosed in Teller appears to be in a computer program which inherently in written form.

Claim 10:

The instructions in Teller are transmitted by broadcast.

Claim 16:

Though Teller fails to disclose that the chart is displayed on paper, one of ordinary skill in the art would have readily recognized printing the chart on a piece of paper to for easy examination as preferred by a user.

Claim 17:

The system in Teller compares corrected skin temperature profile, ambient temperature profile, wherein presence of high or rising corrected skin temperature compared with substantially level ambient temperature indicates that the baby is not healthy. The reference fails specifically discuss the infrequent movement of the baby. Nonetheless, the reference infers such condition to be detected as it implicitly suggests that undesirable change in the position or movement of the baby factors in as discussed in para. P0119]. In light of this discussion, one skilled in the art would have readily recognized to consider infrequent movements of the baby as a factor to determined an abnormal situation in the Teller monitoring system.

Claim 18:

The method disclosed in Teller comprises reviewing and analyzing the chart, to determine a pattern of rise or fall in corrected skin temperature, which indicates presence of an infection.

Claim 19:

Teller discloses a method of monitoring a patient health comprising reviewing and analyzing a corrected temperature profile, ambient temperature profile, and a movement profile of a baby and comparing with an established profile. Paras. [0069], [0073], [0019]. Teller fails to disclose review and analyzing to identify a viral infection pattern. Nonetheless, one skilled in the art would have readily recognized using the same method in identifying a viral infection pattern because a viral infection produces health signs that are related to temperature, and movement of the baby. The corrected skin temperature is generated and recorded by comparing and analyzing data obtained with the device according to the device stated in the rejection of claim 1.

Claim 20:

The established profile disclosed in Teller may be provided by a computer at home or computer at hospital, and stored in a common server that links computer at home and computer at hospital.

Claim 21:

Teller discloses a method of identifying a health condition comprising reviewing and analyzing a corrected temperature profile, ambient temperature profile and movement profile of a patient and comparing with an established profile, wherein matching profile indicates early onset of the viral infection. Para. [0069], [0073], [0019]. Teller fails to disclose review and

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analyzing to identify an early onset of viral infection. Nonetheless, one skilled in the art would have readily recognized using the same method in identifying a early onset of viral infection pattern because a viral infection produces health signs that are related to temperature and movement of the baby. The corrected skin temperature is generated and recorded by comparing and analyzing data obtained with the device according to the device stated in the rejection of claim 1.

### *Applicant's Arguments*

3. Applicant has presented the following arguments:

#### Argument 1:

The applicant has stated that in view of the Examiner's comments, to further distinguish the presently claimed invention, claim 1 has been amended to explicitly indicate that the inventive device is a single unit device worn by a baby. Therefore, Teller fails to disclose or suggest a monitoring device comprising all of the components in a single unit to process and analyze the data as in the presently claimed invention. Accordingly, Teller fails to anticipate the present invention.

#### Argument 2:

Regarding claims 8-18, the applicant has asserted that the examiner fails to establish the prima facie case of obviousness.



Argument 3:

Regarding the rejection of claims 2-7 and 19-21, the applicant has argued in general that these claims should be allowed because they depend on claims which the applicant believes are allowable.

***Response to Applicant's Arguments***

4. Applicant's argument have been fully considered but not deemed persuasive.

Response to argument 1:

No patentable weight is given to a preamble of a claim.

Response to argument 2:

It is submitted that "a prima facie case of obviousness is established when the teachings of the prior art would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. The combined teaching of the prior art need not to provide an absolute prediction of success for the claimed subject matter. Instead, only a reasonable likelihood of success is required. (In re Ball Corporation, 18 USPQ 2d 1491).

Response to argument 3:

The independent claims are not allowed for the reasons stated above, thus, these dependent claims are not allowed either.

For these reasons, the rejection is maintained.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Julie Lieu', with a long horizontal flourish extending to the right.

Julie Lieu  
Primary Examiner  
Art Unit 2612

Jul 17, 06